

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
TWENTY-SEVENTH REGION**

Rural Metro of Central Colorado, Inc.

Employer

and

Case 27-RC-089127

National Emergency Medical Services
Association (NEMSA)/NAGE

Petitioner

**REPORT ON OBJECTIONS, ORDER DIRECTING HEARING
AND NOTICE OF HEARING**

Pursuant to a petition filed on September 12, 2012 and Stipulated Election Agreement approved on September 20, 2012,¹ an election by secret ballot was conducted on October 24 and 25, in an appropriate unit.²

On October 26, a Tally of Ballots was furnished to the parties. The Tally of Ballots showed the following results:

Approximate number of eligible voters	374
Void ballots	0
Votes cast for Petitioner	134
Votes cast against participating labor organization	149
Valid votes counted	283
Challenged ballots	2
Valid votes counted plus challenged ballots	285

¹ All dates in this Report are in calendar year 2012 unless otherwise noted.

² The appropriate collective bargaining unit is as follows:

Including all full-time and regular part-time Emergency Medical Technicians (EMT), Paramedics, Lieutenants, Mechanics, Call Takers, Dispatchers, Vehicle Supply Technicians (VST), Alternative Transportation Services (ATS)/ Wheelchair Operators, and Billing Quality Assurance employees employed by the Employer and working in or deployed in and out of the Employer's facilities in Arvada, Aurora, Sheridan, Colorado Springs, Boulder, and Littleton, Colorado; but excluding all other employees, captains, managers, office clerical employees, professional employees, guards, and supervisors as defined by the Act.

The challenged ballots were not sufficient in number to affect the results of the election.

On November 2, Petitioner timely filed objections to the election (which are attached as Attachment 1), a copy of which was duly served on the Employer. Subsequently, on November 9, Petitioner timely submitted supporting evidence. Petitioner initially advanced four objections, but it subsequently withdrew its Objection No. 4.³

The Election:

The approved Stipulated Election Agreement in this matter (attached as Attachment 2) provided that polling would take place on October 24 at the Employer's locations in Arvada, Aurora, Littleton, Boulder and Colorado Springs, Colorado, and on October 25 at the Arvada and Aurora locations. The Stipulated Election Agreement further provided that "Voters may vote at any location, but they are encouraged to vote at the location that they are working in or from which they are deployed. Voters who work in or are deployed out of Sheridan will vote at the Littleton location."

Objection No. 1:

In its Objection No. 1, Petitioner contends that Board agents who conducted the election at the polling places improperly refused to permit unit employees whose names were not on the voter eligibility lists to cast challenged ballots. In its supporting evidence, Petitioner provided specific evidentiary support for its objection only with respect to the polling place at Arvada, Colorado. In that regard, Petitioner contends that the Board agent assigned to conduct the polling at the Arvada location turned away multiple voters because their names did not appear on the voting list and because an employer observer asserted that some employees were ineligible.

³ The withdrawal of Petitioner's Objection No. 4 is approved.

With regard to Petitioner's Objection No. 1, the Employer asserts that the Board agent at the Arvada, Colorado polling place did not refuse to allow any employee to cast a ballot, whether through the challenged-ballot procedure or otherwise.

Objection No. 2:

In its Objection No. 2, Petitioner contends that the Employer interfered with the election by discriminatorily applying and/or enforcing a no-solicitation and/or no-distribution rule during Petitioner's organizing campaign. In its supporting evidence, Petitioner asserted that the Employer removed Petitioner campaign materials from bulletin boards, employee break rooms, and other locations where communications to unit employees normally are posted or maintained, while allowing its own anti-union materials to remain in such locations.

As to Petitioner's Objection No. 2, the Employer denies that any of Petitioner's literature was removed from bulletin boards, as no such literature was placed in such locations in the first place. As for literature in employee break rooms, the Employer states that literature was not posted or displayed at all in break rooms at most locations, and that at the location where literature was posted managers or supervisors did not remove it.

Objection No. 3:

In its Objection No. 3, Petitioner contends that the Employer interfered with the election by threatening unit employees with the loss of wage or benefits, including overtime, if employees voted for Petitioner. In its supporting evidence, Petitioner asserted that General Manager Dave Patterson directly threatened unit employees with loss of all overtime hours and pay if Petitioner won the election, and that this threat was disseminated throughout the unit.

With respect to Petitioner's Objection No. 3, the Employer denies that General Manager Patterson ever made any threatening remarks to bargaining unit employees concerning loss of benefits or overtime if Petitioner won the election.

CONCLUSION

After preliminary investigation and considering the positions of the parties and evidence submitted in support thereof, I conclude that Petitioner's Objections No. 1, with regard to the Arvada location, and Objection Nos. 2 and 3, raise substantial and material issues of fact, including credibility resolutions, which can best be resolved at a hearing.

ORDER DIRECTING HEARING AND NOTICE OF HEARING

IT IS HEREBY ORDERED, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, that a hearing be held before a hearing officer designated for the purpose of receiving evidence to resolve Petitioner's objections to the election. At said hearing, all parties will have the right to appear in person or otherwise, and fully participate, and will be afforded full opportunity to be heard, examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

IT IS FURTHER ORDERED that the hearing officer designated for the purpose of conducting such a hearing shall prepare and cause to be served upon the parties a report containing a resolution of credibility of witnesses, findings of facts, and recommendations to the Board as to the disposition of Petitioner's Objection No. 1, limited to the Arvada polling place, and Petitioner's Objection Nos. 2 and 3.

Under the provisions of Section 102.69 of the Board's Rules and Regulations, exceptions to the Hearing Officer's Report may be filed with the Board in Washington,

D.C. Exceptions must be received by the Board in Washington, D.C. within 14 days from the issuance of said report. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy on the other parties and shall file a copy with the Undersigned, and a statement of service shall be made to the Board simultaneously with the filing of exceptions. The rights and obligations of the parties are further delineated in Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, and all actions of the parties shall be in accordance with the rules covering this type of proceeding as contained therein. If no exceptions are filed thereto, the Board may adopt the recommendations of the hearing officer.

YOU ARE HEREBY NOTIFIED that commencing at **9 a.m. on Tuesday, November 27, 2012**, and on consecutive days thereafter until concluded, at the National Labor Relations Board, Region 27, Dominion Towers, 600 17th Street, Suite 700, North Tower, Denver Colorado, the hearing on objections as set forth above will be conducted before a hearing officer of the National Labor Relations Board at which time and place the parties will have the right to appear and give testimony.

Signed at Denver, Colorado, this 19th day of November, 2012.

/s/ Wanda Pate Jones
Wanda Pate Jones
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